

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4256-03
Bill No.: HCS for HB 1684
Subject: Economic Development; Tax Credits
Type: Original
Date: February 9, 2010

Bill Summary: This proposal creates and modifies provisions relating to job growth.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$377,913 to Unknown - could exceed \$50,377,913)	(\$326,845 to Unknown - could exceed \$50,326,845)	(\$336,649 to Unknown - could exceed \$50,336,649)
Total Estimated Net Effect on General Revenue Fund*	(\$377,913 to Unknown - could exceed \$50,377,913)	(\$326,845 to Unknown - could exceed \$50,326,845)	(\$336,649 to Unknown - could exceed \$50,336,649)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
School District Trust	(Unknown)	(Unknown)	(Unknown)
Conservation Commission	(Unknown)	(Unknown)	(Unknown)
Parks and Soils	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds*	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 25 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	6 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	6 FTE	6 FTE	6 FTE

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government*	(Unknown)	(Unknown)	(Unknown)

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

FISCAL ANALYSIS

ASSUMPTION

Sections 68.025 - 68.370 - Port Authorities:

In response to a similar proposal from this year (HB 1432), officials from the **Department of Revenue (DOR)** stated the proposal allows the port authority to impose a sales, use, or property tax.

DOR stated their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax system, changes cannot be made without significant impact to the department's resources and budget. Therefore, the Information Technology portion of the fiscal impact is estimated with a level of effort valued at \$4,441 (1 FTE for 1 month to make updates to the Missouri sales tax system (MITS)).

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

In response to a similar proposal from this year (HB 1432), officials from the **Department of Transportation** and the **Office of the State Auditor** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this year (HB 1432), officials from the **Office of the State Courts Administrator** assumed the proposal would not fiscally impact the courts.

In response to a similar proposal from this year (HB 1432), officials from the **Kansas City Port Authority** assumed they would not be fiscally impacted by the proposal.

In response to a similar proposal from 2009 (SB 215), officials from the **State Tax Commission** assumed the proposal would not fiscally impact their agency.

In response to a similar proposal from 2009 (HB 215), officials from the **Southeast Missouri Port Authority** (SEMO Port) state in 1985, both Cape Girardeau and Scott Counties proposed and passed a quarter-cent sales tax to provide capital funds for Semo Port. The proposals passed

ASSUMPTION (continued)

by 65% to 70% in both counties, strongly supported by the county commissions and other local elected officials. The sales tax ran 1986-1990 and sunset after four years. It brought in \$7.3 million in capital funds and was crucial in giving the Port a strong development effort. This was done by the two counties in coordination with and in support of the port.

In their situation, SEMO port states they do not foresee trying to enact any kind of tax without the complete support of the two county commissions. With their support, the tax likely would be pursued under the counties rather than under the port. If it were done under the port, there could be additional costs for collecting the tax through the normal county procedures, but I do not see this happening -- it would be done by the counties themselves. It would be difficult in any case to see a future tax to support the port's development, unless some very specific major development were contemplated.

Oversight assumes this part of the proposal is permissive in nature and allows Port Authorities to pursue an increase in sales tax and/or property tax to fund projects. Approval must be given by the voters in the district. Therefore, Oversight will not reflect a direct fiscal impact as a result of this proposal.

Oversight assumes if the voters were to approve a tax increase, there would be revenue generated for the port authority projects. If the citizens would approve a sales tax increase for the Port Authorities, the Department of Revenue would retain a 1% collection fee which would be deposited into the State's General Revenue Fund.

Sections 144.010 & 144.020 - Sales tax exemptions:

Oversight assumes these sections will result in a reduction of sales tax collections.

Sections 144.058 - Sales tax exemptions for items used in a mine:

Oversight assumes this section will result in a potential reduction of sales tax collections.

ASSUMPTION (continued)

Section 144.810 - Sales tax exemption for new data storage centers or server farm facilities:

In response to a similar proposal from this year (HB 1513), officials from the **Office of Administration, Division of Budget and Planning** assumed the proposal would create a sales tax exemption for "data center" or "server farm" facilities that invest \$1 million annually. The proposal does not define these terms, and BAP assumes these industries would fall into NAICS category 541512 Computer Systems Design, of which there are approximately 500 firms in Missouri. The proposal would require the Department of Economic Development (DED) to certify the project, but would not clearly require the \$1 million annual investment to be in Missouri or from Missouri firms. This program may encourage other economic activity, but BAP does not have data to estimate the induced revenues. DED may have such an estimate.

In response to a similar proposal from this year (HB 1513), officials from the **Department of Conservation** (MDC) assumed this proposal would authorize an exemption for sales and use tax for certain utilities and all sales at retail of certain tangible personal property and material used by data storage center and server farm facilities. MDC officials stated that this proposal could have a significant negative fiscal impact on MDC funds which could exceed \$100,000 annually. However, MDC is unable to provide an exact amount and will rely on DOR for the fiscal impact of this legislation.

In response to a similar proposal from this year (HB 1513), officials from the **Department of Economic Development** (DED) assumed this proposal would create sales and use tax exemptions for data storage centers and server farm facilities. A project plan would be required for data storage centers and server farm facilities seeking the tax exemption. DED would be responsible for certifying the projects in conjunction with the Department of Revenue. The proposal would also require DED to conduct random audits to ensure compliance with the intent of the proposed legislation.

The Division of Business and Community Services would anticipate the need for one additional FTE to ensure compliance and perform the auditing functions required by the proposed legislation. This employee would be an Economic Development Incentive Specialist III and would be responsible for reviewing the project plan applications to make sure they meet the criteria of the program, and conducting random audits to ensure compliance with the requirements. DED submitted a cost estimate for the proposal including salaries, benefits, equipment, and expense totaling \$63,561 for FY 2011, \$71,571 for FY 2012, and \$73,903 for FY 2013.

ASSUMPTION (continued)

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DED could absorb the additional workload with existing resources. If this proposal created an unanticipated increase in the DED workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

In response to a similar proposal from this year (HB 1513), officials from the **Department of Elementary and Secondary Education** assumed this proposal would not impact their organization or local schools, other than any resulting impact from the reduction of state revenues.

In response to a similar proposal from this year (HB 1513), officials from the **Department of Natural Resources** (DNR) stated that this proposal, if enacted, would specifically exempt from state and local sales and use taxes utilities including telecommunication services, as well as machinery, equipment, or computers used by any data storage center and server farm facility and all sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any facility used as a data storage center and server farm.

DNR's Parks and Soils Sales Tax funds are derived from a one-tenth of one percent sales and use tax pursuant, and creating additional sales tax exemptions would decrease the amount of funding available in these funds. The funds have been used for the acquisition and development, maintenance and operation of state parks and historic sites and to assist agricultural landowners through voluntary programs. Any additional sales tax exemption would be an unknown loss to the Parks and Soils Sales Tax Funds.

In response to a similar proposal from this year (HB 1513), officials from the **Department of Revenue** (DOR) assume this proposal would create an exemption from sales taxes beginning January 1, 2011, for all electrical energy, gas, water, and other utilities including telecommunication services, machinery, equipment, or computers used by any data storage center and server farm facility, and all sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any facility used as a data storage center and server farm. DOR officials stated that they did not have a way to determine how much sales tax revenue would be lost due to this exemption.

To be eligible for the exemption, a minimum investment of \$1.0 million per year for any data storage center and server farm facility would be required. Any data storage center and server farm facility seeking a tax exemption would be required to submit a project plan to the Department of Economic Development. Any construction of any data storage center and server

ASSUMPTION (continued)

farm facility within a certified area shall be phased in without any penalty or time frame applied to its construction. DOR officials assume that an exemption form would be needed to clearly identify companies eligible for this exemption.

Administrative impact:

Collections and Tax Assistance would anticipate additional contacts due to this exemption, and that one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every additional 24,000 contacts annually to the registration section; one FTE Revenue Processing Technician I (Range 10, Step L) would be required for every additional 4,800 contacts annually to the tax assistance offices.

Sales Tax would anticipate one FTE Revenue Processing Technician I (Range 10, Step L) for every 1,000 exemptions processed under this statute.

DOR officials also noted that under current provisions, Excise Tax personnel calculate and deduct sales tax prior to refunding the motor fuel tax on refunds of diesel fuel used for non-highway purposes. This proposal would eliminate that processing step thus reducing the amount of time spent in processing the refund claim. Also under current provisions, sales tax is charged on dyed diesel fuel purchased at retail, so under this proposal retailers would not have to charge the sales tax on these exempt purchases.

In summary, DOR officials submitted an estimate of the cost to implement this proposal including three additional employees with benefits, expense, and equipment totaling \$118,594 for FY 2011, \$126,244 for FY 2012, and \$130,032 for FY 2013.

Oversight assumes there would be a limited number of entities eligible for this sales and use tax exemption and that DOR could absorb the additional workload with existing resources. If this proposal created a significant unanticipated increase in the DOR workload, or if multiple such proposals were implemented, resources could be requested through the budget process.

Sections 348.273 - 348.274 - Tax Credit for equity investments:

In response to a similar proposal from this year (SB 765), officials from the **Department of Economic Development (DED)** state their Business and Community Services (BCS) division would require one additional FTE to administer the Equity Investment Tax Credit program due to the anticipated amount of administration involved. The FTE would be an Economic

ASSUMPTION (continued)

Development Incentive Specialist III and would be responsible for reviewing the tax credit applications to make sure they meet the criteria of the program, drafting and sending the tax credit awards and ensuring compliance with the program. The related costs associated with the FTE include one-time expenditures for systems furniture, a side chair, file cabinet, calculator and telephone and recurring costs for office supplies, computer, professional development and travel. However, there would be an offset of unknown positive economic benefits as a result of this increase so the exact amount of the impact cannot be determined. DED assumes the cost for the new FTE would total roughly \$70,000 per year.

Oversight assumes DED's estimate of expense and equipment cost for the new FTE could be overstated. If DED is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly \$6,000.

In response to a similar proposal from this year (SB 765), officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted tax credits each year.

DIFP state they will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, DIFP may need to request more expense and equipment appropriation through the budget process.

In response to a similar proposal from this year (SB 765), officials from the **Department of Revenue (DOR)** assumed the need for two FTE to administer this program. DOR's Personal Tax Section assumes the need for one additional Revenue Processing Technician I for every 6,000 additional credits reviewed annually. DOR's Corporate Tax Section also assumes the need for one Revenue Processing Technician I for every 6,000 additional tax credit redemptions. Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished utilizing 1 existing CIT III for 2 months for system modifications to MINITS and 3 existing CIT III for 1 month for system modifications to COINS, Café, and E-file. The estimated value is \$22,260.

ASSUMPTION (continued)

Section 620.1039 - Resurrection of the Qualified Research Expenses Tax Credit Program:

In response to a similar proposal from this year (HB 1616), officials from the **Department of Economic Development (DED)** stated their Business and Community Services would need for one additional FTE and related costs to administer the Qualified Research Expense Tax Credit Program. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the tax credit applications to make sure they meet the criteria of the program, drafting and sending the tax credit awards and ensuring compliance with the program. The related costs for this FTE include one-time expenditures for systems furniture, a side chair, file cabinet, calculator and telephone and recurring costs for office supplies, computer, professional development and travel. The cap for this tax credit is \$10 million so there would be a negative impact to total state revenue. However, there would be an offset of unknown positive economic benefits as a result of this increase so the exact amount of the impact cannot be determined.

DED assumed the total cost of the FTE to be roughly \$70,000 per year.

Oversight assumes DED's estimate of expense and equipment cost for the new FTE could be overstated. If DED is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly \$6,000.

In response to a similar proposal from this year (HB 1616), officials from the **Department of Revenue (DOR)** stated to the extent tax credits are taken, this legislation would create as much as a \$10 million negative impact on Total State Revenue. DOR states their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$8,904 (336 FTE hours to make programming changes to the individual income tax processing system (MINITS) and the corporate income tax processing system (COINS)).

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

ASSUMPTION (continued)

In response to a similar proposal from 2009 (HB 312), officials from the **Office of Administration - Budget and Planning** stated this proposal reauthorizes the tax credit for qualified research expenses. The amount of tax credits available for this program is \$10 million. This proposal could therefore lower general and total state revenues by that amount.

In response to a similar proposal from this year (HB 1616), officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year.

Oversight will range the fiscal impact of the programs from \$0 (no additional tax credits will be issued) to the annual limit of \$10 million. Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore, have not reflected them in the fiscal note.

Section 620.1894 - Missouri Jobs for the Future Plan:

In response to a similar proposal from this year (HB 1635), officials from the **Department of Economic Development (DED)** stated the proposed legislation creates provisions for the establishment of Missouri Jobs for the Future Districts. DED anticipated an unknown fiscal impact as a result of the bill.

Oversight will assume DED will be able to absorb the additional duties outlined in this proposal with existing resources.

In response to a similar proposal from this year (HB 1635), officials from the **Department of Revenue (DOR)** stated Section 620.1894.1(7)(b) - defines "MO-JFF revenues" to include the state income tax withheld on behalf of new employees by the employers at the businesses located within the MO-JFF district.

ASSUMPTION (continued)

The new form would look similar to the current Employer's Return of Income Taxes Withheld Form (MO-941), but would have an additional withholding line (Line 2) for withholdings from these new employees located in the MO-JFF district.

The employer will continue to remit the total withholdings as reported on their form.

Section 620.1894.9

This section provides that the MO-JFF revenues shall be available for appropriation by the General Assembly from the GR fund to the Department of Economic Development for distribution to the treasurer of the municipality.

DOR assumed the Department of Economic Development will make the transfer from GR to their Department to allow the distribution to the municipality.

DOR assumed the need for one (1) Revenue Processing Technician I (Range 10, Step L) for every 7,800 pieces of additional withholding correspondence processed. DOR estimates the cost for this additional FTE to total \$43,000 per year.

Oversight assumes the level of correspondence will rise to the level to which one additional FTE will be required by the Department of Revenue.

In response to a similar proposal from this year (HB 1635), officials from the **Office of Administration - Budget and Planning (BAP)** stated they have identified the following sections which may have budget or revenue implications:

- Section 620.1894.1 - Defines the MO-JFF program. Defines MO-JFF revenues as a) half the incremental increase in GR sales tax over the base year; and b) all the state income tax withheld from new employees, from facilities within the MO-JFF district. BAP does not have an estimate of the new revenues that may be generated in these districts. DED may have such an estimate.
- Section 620.1894.9 & 11 - MO-JFF revenues shall be transferred from GR to the appropriate municipalities. This distribution is subject to appropriation.
- 620.1894.10 - The municipalities shall deposit these revenues in the MO-JFF Projects Financing Fund. Disbursements from such fund are subject to appropriation.
- 620.1895.15 - MO-JFF revenues shall not preclude other public incentives.
- 620.1895.19 - portions of certain public salaries and expenses may be borne by the MO-JFF revenues. BAP defers to DED and DOR for estimates of such costs.

ASSUMPTION (continued)

This program may stimulate other economic activity, but BAP does not have data to estimate the induced revenues. The Department of Economic Development may have such an estimate.

BAP notes that the phrase "new employee" is not defined in this proposal. In the case that a new employee or a new job in a JFF district was one that was transferred from another area in the state, then there would be no state new income tax, and the net benefit from the project would be substantially lower.

BAP notes that there is no language in the proposal requiring a finding that a project would not happen without JFF assistance. In this case, and especially given the language in 620.1895.15, it is possible the incentives may exceed the benefits of a particular project.

BAP notes that this proposal would obligate GR to a specific program, thereby increasing budget expenditures. This proposal could reduce available revenues if incentives exceed benefits.

This proposal could have a positive fiscal impact to the state; however, **Oversight** considers these benefits to be indirect. Therefore, Oversight will not reflect the potential benefits derived from this proposal in the fiscal note.

Section 620.1910 - Manufacturing Jobs Act:

In response to a similar proposal from this year (HB 1675), officials for the **Office of Administration - Budget and Planning (BAP)** stated this proposal provides incentives in the form of reduced withholdings for qualified manufacturing companies or qualified suppliers that create new jobs or retain jobs. This proposal may reduce general and total state revenues, to the extent that withholding incentives are granted to companies that retain jobs. This proposal may stimulate other economic activity, but BAP does not have an estimate of any induced revenues. The Department of Economic Development may have an estimate of incentives expected to be granted under this program.

In response to a similar proposal from this year (HB 1675), officials from the **Department of Economic Development (DED)** stated the proposed legislation provides incentives for qualified manufacturing facilities or qualified suppliers. Once approved by DED, a qualified manufacturing facility is able to retain 50% of the withholding tax from retained jobs for 10 years and is also eligible to participate in the Quality Jobs program. A qualified supplier may retain withholding tax from new jobs for 3 years.

ASSUMPTION (continued)

DED assumes the proposed legislation would result in the need for two additional FTE in Business and Community Services (BCS). These FTE would be Economic Development Incentive Specialist IIIs and would be responsible for administering the program. The related costs for these FTE include one-time expenditures for systems furniture, side chairs, file cabinets, calculators and telephones and recurring costs for office supplies, computers, professional development and travel. DED assumes the cost for these FTE to total roughly \$145,000 per year.

Oversight assumes DED's estimate of expense and equipment cost for the new FTEs could be overstated. If DED is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly \$11,800.

In response to a similar proposal from this year (HB 1675), officials from the **Department of Revenue (DOR)** stated their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$21,306 (840 FTE hours) to make programming changes to the withholding tax processing system.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the ITSD costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

DOR also assumed the need for two additional FTE to administer the changes to the withholding tax from both manufacturers as well as suppliers. DOR assumes a cost for these additional FTE of roughly \$85,000 per year.

Oversight assumes DOR's estimate of expense and equipment cost for the new FTEs could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly \$11,200.

With the narrow definition of 'qualified manufacturing facility' as well as 'qualified supplier', **Oversight** will assume enough companies will qualify for the benefits of this proposal to only justify one FTE each for the Department of Economic Development and the Department of Revenue. If the program is successful and more companies qualify for the benefits than what

ASSUMPTION (continued)

Oversight anticipates, Oversight assumes DED and DOR could request additional FTE through the appropriations process.

Oversight has, for fiscal note purposes only, changed the starting salary for DOR's additional employee to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Also, Oversight assumes that the relatively small number of additional staff can be located in existing office space.

In response to a similar proposal from this year (HB 1675), officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted tax credits each year.

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

In response to a similar proposal from this year (HB 1675), officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Oversight assumes there would be some positive economic benefit to the state as a result of the new programs in this proposal, however, Oversight considers these benefits to be indirect and therefore, have not reflected them in the fiscal note. There appears to be a limit of \$35 million on the amount of benefits that may be awarded under this program; therefore, Oversight will assume a range of \$0 (no companies qualify for the program) to an annual potential loss of withholding tax revenue of \$35 million.

Section 620.1920 - Missouri Business First Act:

In response to a previous version of this proposal, officials from the **Department of Economic Development, Department of Revenue** and the **Department of Agriculture** each assumed the proposal would not fiscally impact their respective agencies.

In response to a previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

In response to a previous version of this proposal, officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated it is unknown how many insurance companies will choose to participate in these programs and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year should an increase in the amount of available credits be approved.

ASSUMPTION (continued)

Oversight assumes this proposal gives the Department of Economic Development the ability to authorize additional benefits for certain business expansion projects. Oversight assumes the various programs specified in the proposal will still not be allowed to issue benefits over their annual limit, aggregate debt limit, or specified project appropriation. Therefore, Oversight assumes the overall potential fiscal impact for the stated programs have already been represented in prior fiscal notes. Therefore, although this proposal may result in an increased issuance of state tax credits, withholding retention or other state benefits, Oversight will assume the proposal will not result in additional fiscal impact that has not already been shown on prior fiscal notes.

Oversight also assumes the Department of Economic Development would not be able to authorize additional credits to be issued though the Qualified Beef tax credit or the New Generation Cooperative tax credit programs, since they are both administered by the Department of Agriculture / MASBDA.

The **Department of Revenue** responded to this substitute and assumed the need for eight additional FTE, depending upon the number of contacts annually to various parts of their department. The total costs of these eight additional FTE is estimated to total roughly \$350,000 annually. DOR also estimated the IT portion of the bill is estimated with a level of effort valued at \$80,136 (3,024 FTE hours) to make the updates to several tax processing systems.

Oversight has no basis to estimate the number of contacts that will be made to the Department of Revenue from the various programs and changes in the proposal.

Oversight assumes the many programs and changes to existing programs in this proposal would have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposals and will not reflect them in the fiscal note.

This proposal could result in a decrease in Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2011	FY 2012	FY 2013
GENERAL REVENUE			
<u>Loss - DOR (Section 144.010)</u>			
changes regarding sales tax for hotels	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Loss - DOR (Section 144.019)</u>			
Sales tax exemptions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Loss - DOR (Section 144.058)</u>			
new sales tax exemption for items used in underground mine	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Loss - DOR (Section 144.810)</u>			
new sales tax exemption for new data storage centers or server farm facilities	(Unknown)	(Unknown)	(Unknown)
<u>Costs - DOR</u>			
Information Technology changes required by the legislation	(\$80,136)	\$0	\$0
<u>Costs - DED (Sections 348.273 -348.274)</u>			
Personal Service (1 FTE)	(\$35,803)	(\$44,252)	(\$45,580)
Fringe Benefits	(\$18,775)	(\$23,206)	(\$23,902)
Expense and Equipment	<u>(\$8,983)</u>	<u>(\$4,293)</u>	<u>(\$4,421)</u>
<u>Total Costs - DED</u>	(\$63,561)	(\$71,751)	(\$73,903)
FTE Change - DED	1 FTE	1 FTE	1 FTE
<u>Costs - DOR (Sections 348.273- 348.274)</u>			
Personal Service (1 FTE)	(\$19,467)	(\$24,061)	(\$24,783)
Fringe Benefits	(\$10,208)	(\$12,618)	(\$12,996)
Expense and Equipment	<u>(\$6,023)</u>	<u>(\$518)</u>	<u>(\$534)</u>
<u>Total Costs - DOR</u>	(\$35,698)	(\$37,197)	(\$38,313)
FTE Change - DOR	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2011	FY 2012	FY 2013
<u>Loss - Tax Credit for equity investments</u> in qualified Missouri companies (Sections 348.273 - 348.274)	\$0 to (\$5,000,000)	\$0 to (\$5,000,000)	\$0 to (\$5,000,000)
<u>Costs - DED (Section 620.1039)</u>			
Personal Service (1 FTE)	(\$35,803)	(\$44,252)	(\$45,580)
Fringe Benefits	(\$18,775)	(\$23,206)	(\$23,902)
Expense and Equipment	<u>(\$8,983)</u>	<u>(\$4,293)</u>	<u>(\$4,421)</u>
<u>Total Costs - DED</u>	(\$63,561)	(\$71,751)	(\$73,903)
FTE Change - DED	1 FTE	1 FTE	1 FTE
<u>Loss - (Section 620.1039)</u>			
Resurrection of the Qualified Research Expense tax credit program	\$0 to (\$10,000,000)	\$0 to (\$10,000,000)	\$0 to (\$10,000,000)
<u>Loss - (Section 620.1894) to the MO-JFF</u> Projects Financing Fund - incremental increase in sales tax and state income tax from MO-JFF projects	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs - DOR (Section 620.1894)</u>			
Personal Service (1 FTE)	(\$19,467)	(\$24,061)	(\$24,783)
Fringe Benefits	(\$10,208)	(\$12,618)	(\$12,996)
Expense and Equipment	<u>(\$6,023)</u>	<u>(\$518)</u>	<u>(\$534)</u>
<u>Total Costs - DOR</u>	(\$35,698)	(\$37,197)	(\$38,313)
FTE Change - DOR	1 FTE	1 FTE	1 FTE
<u>Costs - DED (Section 620.1910)</u>			
Personal Service (1 FTE)	(\$35,803)	(\$44,253)	(\$45,580)
Fringe Benefits	(\$18,775)	(\$23,206)	(\$23,902)
Expense and Equipment	<u>(\$8,983)</u>	<u>(\$4,293)</u>	<u>(\$4,422)</u>
<u>Total Costs - DED</u>	(\$63,561)	(\$71,752)	(\$73,904)
FTE Change - DED	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2011	FY 2012	FY 2013
<u>Costs - DOR (Section 620.1910)</u>			
Personal Service (1 FTE)	(\$19,467)	(\$24,061)	(\$24,783)
Fringe Benefits	(\$10,208)	(\$12,618)	(\$12,996)
Expense and Equipment	<u>(\$6,023)</u>	<u>(\$518)</u>	<u>(\$534)</u>
Total Costs - DOR	(\$35,698)	(\$37,197)	(\$38,313)
FTE Change - DOR	1 FTE	1 FTE	1 FTE
<u>Loss - DED (Section 620.1910)</u>			
Retained withholding tax from qualified manufacturing facilities and qualified suppliers	\$0 to <u>(\$35,000,000)</u>	\$0 to <u>(\$35,000,000)</u>	\$0 to <u>(\$35,000,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(\$377,913 to Unknown - could exceed <u>\$50,377,913)</u>	(\$326,845 to Unknown - could exceed <u>\$50,377,913)</u>	(\$336,649 to Unknown - could exceed <u>\$50,336,649)</u>
Estimated Net FTE Change for General Revenue Fund	6 FTE	6 FTE	6 FTE

Note: This does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - State Government
 (continued)

FY 2011

FY 2012

FY 2013

SCHOOL DISTRICT TRUST FUND

Loss - DOR (Section 144.010)

Changes regarding sales tax for hotels

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

Loss - DOR (Section 144.019)

Sales tax exemptions

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

Loss - DOR (Section 144.058)

new sales tax exemption for items used
 in underground mine

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

Loss - DOR (Section 144.810)

new sales tax exemption for new data
 storage centers or server farm facilities

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT TO THE
 SCHOOL DISTRICT TRUST FUND**

(UNKNOWN)

(UNKNOWN)

(UNKNOWN)

**CONSERVATION COMMISSION
 FUND**

Loss - DOR (Section 144.010)

Changes regarding sales tax for hotels

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

Loss - DOR (Section 144.019)

Sales tax exemptions

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

Loss - DOR (Section 144.058)

new sales tax exemption for items used
 in underground mine

\$0 or
 (Unknown)

\$0 or
 (Unknown)

\$0 or
 (Unknown)

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<u>FISCAL IMPACT - State Government</u>	FY 2011	FY 2012	FY 2013
(continued)			

<u>Loss - DOR (Section 144.810)</u>			
new sales tax exemption for new data storage centers or server farm facilities	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
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PARKS, AND SOIL AND WATER FUNDS

<u>Loss - DOR (Section 144.010)</u>			
Changes regarding sales tax for hotels	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>Loss - DOR (Section 144.019)</u>			
Sales tax exemptions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>Loss - DOR (Section 144.058)</u>			
new sales tax exemption for items used in underground mine	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>Loss - DOR (Section 144.810)</u>			
new sales tax exemption for new data storage centers or server farm facilities	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT TO THE PARKS, AND SOIL AND WATER FUNDS	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011	FY 2012	FY 2013
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LOCAL POLITICAL SUBDIVISIONS

<u>Loss</u> - DOR (Section 144.058) new sales tax exemption for items used in underground mine	(Unknown)	(Unknown)	(Unknown)
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<u>Loss</u> - Sales taxes (Section 144.810) new sales tax exemption for new data storage centers or server farm facilities	(Unknown)	(Unknown)	(Unknown)
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<u>Income</u> - from State General Revenue Fund - incremental increase in state sales tax and income tax (Section 620.1894)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
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<u>Costs</u> - associated with MO-JFF plans, MO-JFF projects and MO-JFF districts (Section 620.1894)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
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FISCAL IMPACT - Small Business

Small businesses that qualify for additional benefits would be positively impacted as a result of this proposal.

FISCAL DESCRIPTION

Sections 68.025 - 68.370 - change the laws regarding port authorities.

Section 144.058 - would authorize a sales tax exemption on items used or consumed by a person, firm, corporation, or partnership operating a business, which after August 28, 2010, relocates such business to a facility located within a portion of an underground mine that is not used for mining and contains at least five hundred thousand square feet of space.

FISCAL DESCRIPTION (continued)

Section 144.810 - would authorize a sales tax exemption on utilities including telecommunications services, machinery, equipment, or computers, and all retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling facilities used by data storage centers and server farm facilities. To be eligible for these exemptions, the facility must invest at least \$1 million every 12 months. Facilities wishing to receive these exemptions would be required to submit a project plan to the Department of Economic Development, which would certify the project in conjunction with the Department of Revenue. The Department of Economic Development would conduct random audits of projects to make certain that the intent of these provisions is followed. Any construction of a facility within a certified area will be phased in.

Sections 348.273 - 348.274 - This part of the proposal authorizes the Department of Economic Development to issue up to five million dollars in tax credits annually to encourage equity investments in qualified Missouri manufacturing businesses. Qualified Missouri businesses must be a manufacturing business, in need of venture capital, which will base its operations from an existing facility located in a distressed community. Such business must create at least twenty new jobs, offer health insurance to all of its full-time employees, and pay at least fifty percent of such health insurance premiums. Investors who make equity investments in a qualified Missouri business may be issued a tax credit equal to fifty percent of the investment. Tax credits authorized under this act can be carried forward for up to three years or sold.

Section 620.1039 - Currently, no tax credits for qualified research expenses can be approved, awarded, or issued. This bill removes these restrictions and authorizes a tax credit equal to no more than 6.5% of a taxpayer's qualified research expenses. The annual aggregate cap on the amount of these tax credits that can be authorized by the Department of Economic Development is \$10 million.

Qualified research expenses will be limited to those incurred in the research and development of agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical devices, and prescription pharmaceuticals consumed by humans or animals. Expenses incurred in the research, development, and manufacturing of power system technology for aerospace, space, defense, or implantable or wearable medical devices are also permitted.

The department director may allow a taxpayer to transfer up to 40% of the tax credits issued, but not yet claimed, between January 1, 2011, and December 31, 2017. The bill requires that the department director act between August 1 and August 15 on tax credit applications filed between January 1 and July 1 for claims from the previous year.

FISCAL DESCRIPTION (continued)

The formula is specified by which tax credits will be issued if the eligible claims for the credits exceed the annual cap. No one taxpayer can be issued more than 30% of the total amount of tax credits authorized in any calendar year.

Section 620.1894 - establishes the Missouri Jobs for the Future plan (MO-JFF), which:

- Allows the governing body of a municipality to establish a MO-JFF district. A MO-JFF project may be implemented in the district according to a MO-JFF plan. The district, plan, and project must be established or adopted by ordinance.
- Defines "MO-JFF revenues" as 50% of the incremental increase in the general revenue portion of eligible state sales tax revenues received under Section 144.020 and up to 100% of the state income tax withheld on behalf of new employees by the businesses located within the MO-JFF district. Sales tax revenue attributable to retail sales will only be included in this amount if it can be proven that the sales tax revenue is attributable to new sources which did not exist in the district in the baseline year. The proposal specifies what portion of sales tax revenue will be deemed MO-JFF revenue for businesses that existed before the formation of the district and for businesses which relocate to the district;
- Requires a MO-JFF project to be completed within 25 years; and
- Specifies that a MO-JFF project cannot obtain land by eminent domain.

Section 620.1910 - provides tax incentives for qualified manufacturing facilities or qualified suppliers that create or retain jobs in Missouri. A qualified manufacturing facility may retain fifty percent of the withholding tax from retained jobs for a period of ten years. The manufacturing facility may also qualify for the Qualify Jobs program if receiving benefits from this program. A qualified supplier may retain all withholding tax from new jobs for a period of three years (or for five years if the supplier pays wages equal to or greater than 120% of industrial average wage). This program has a \$135 million per year cap.

Section 620.1920 - allows the Director of the Department of Economic Development to increase tax credits, withholding percentages, or other economic benefits for certain Missouri business expansion projects.

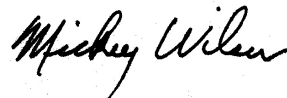
This proposal contains an emergency clause.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
Department of Revenue
Department of Agriculture
Department of Insurance, Financial Institutions and Professional Registration
Office of the Secretary of State
Office of Administration - Budget and Planning
Department of Transportation
Office of the State Auditor
Office of the State Courts Administrator
State Tax Commission
Department of Conservation
Department of Elementary and Secondary Education
Department of Natural Resources
Kansas City Port Authority
Southeast Missouri Port Authority



Mickey Wilson, CPA
Director
February 9, 2010